

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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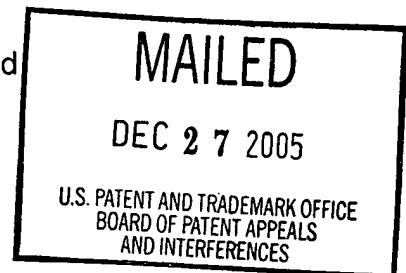
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte FRANCIS V. CHISARI and  
ANDREAS CERNY

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Appeal No. 2006-0211  
Application 08/854,825



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ORDER DENYING REQUEST FOR ORAL HEARING

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On November 10, 2003, counsel for the appellants filed, among other documents, an Appeal Brief which stated:

"Enclosed are three copies of the Appeal Brief. Applicants request an oral hearing."

Title 37 CFR § 41.47 sets forth the requirements for an oral hearing and are reproduced below:

**§ 41.47 Oral hearing.**

(a) An oral hearing should be requested only in those circumstances in which appellant considers such a hearing necessary or desirable for a proper presentation of the appeal. An appeal decided on the briefs without an oral hearing will receive the same consideration by the Board as appeals decided after an oral hearing.

(b) If appellant desires an oral hearing, appellant must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied by the fee set forth in §41.20(b)(3) within two months from the date of the examiner's answer or supplemental examiner's answer.

(c) If no request and fee for oral hearing have been timely filed by appellant as required by paragraph (b) of this section, the appeal will be assigned for consideration and decision on the briefs without an oral hearing.

Since the request for oral hearing was not filed in a separate paper as required by 37 CFR § 41.47(b), the appellants' request for an oral hearing cannot be granted. Thus, the previous notation of the Appeal being subject to an oral hearing is withdrawn.

If the appellants still desire an oral hearing, a petition under 37 CFR § 1.183 must be filed **within two weeks** of the facsimile transmission date of this notice. Such a petition must include (1) a request to suspend the separate paper requirement of 37 CFR § 41.47(b); (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 41.47(b) be suspended or waived; and (3) be accompanied by the petition fee set forth in 37 CFR § 1.17(h). This **two week time period** for filing a petition under 37 CFR § 1.183 is not

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extendable under 37 CFR § 1.136(a). The failure to timely file a petition under 37 CFR § 1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).<sup>1</sup>

BOARD OF PATENT APPEALS  
AND INTERFERENCES



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<sup>1</sup> If the appellants decide not to file a petition under 37 CFR § 1.183, the Board of Patent Appeals and Interferences would appreciate written notice thereof so that a decision on the appeal can be expedited.